

1 not discussed with Defendant and no written consent appears in the docket in this case.
2 Regardless, both parties proceeded with the hearing as if consent had been given. Consent
3 can be inferred by the parties voluntarily proceeding before a magistrate judge. *Roell v.*
4 *Withrow*, 538 U.S. 580, 586-587, 123 S.Ct. 1696, 1701-1702 (2003); *Chambless v.*
5 *Louisiana-Pacific Corporation*, 481 F.3d 1345, 1350-1351 (11th Cir.2007). The Court
6 determines by the actions of the parties that they consent to jurisdiction of the Magistrate
7 Judge.

8 **Statement of Facts**

9 The Petition alleges that Defendant began to serve a two year term of supervised
10 release when he was released from prison on August 20, 2005. Allegation A alleged a
11 violation of standard condition number one, that Defendant violated federal law by illegally
12 reentering the country after deportation.

13 United States Probation Officer Bea Castillo testified for the Government. Her
14 testimony established that Defendant was ordered removed on September 30, 2005, and
15 pursuant to that order was removed on October 4, 2005 through San Ysidro, California. He
16 was subsequently found back in Phoenix, Arizona on October 24, 2006, while still on
17 supervised release, when police responded to a domestic disturbance call.

18 Petitioner was not advised of his supervised release conditions in writing. Reporter's
19 Transcript, 3/25/2008, p. 18. However, Judge Edginton specifically put Defendant on notice
20 that he was not to reenter the United States without legal authorization. Reporter's
21 Transcript, 11/19/2004, p. 7. The requirement that he not violate federal law is imputed to
22 Defendant. *United States v. Ortuno-Higareda*, 450 F.3d 406, 411-412 (9th Cir.2006).

23 **Recommendation**

24 Wherefore, the Court finds as follows:

25 1. By the actions of the parties, the Magistrate Judge infers the parties consented to
26 jurisdiction of the Magistrate Judge.

27 2. Defendant violated his conditions of supervised release by reentering the United
28 States after being deported on October 4, 2005, thus violating federal law.

The Court recommends that the District Judge adopt the finding that Defendant violated Standard Condition Number One and enter a disposition as appropriate.

The Clerk is directed to mail a copy of the Report and Recommendation to Plaintiff and counsel for Defendant.

DATED this 16th day of April, 2008.

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